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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,536	05/18/2005	Zion Azar	127/04496	6013

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WOLF, BLOCK, SCHORR & SOLIS-COHEN LLP  
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NEW YORK, NY 10177

EXAMINER
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RALIS, STEPHEN J

ART UNIT	PAPER NUMBER
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3742

MAIL DATE	DELIVERY MODE
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06/25/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/535,536

Applicant(s)

AZAR ET AL.

Examiner

Stephen J. Ralis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 3/16/2006
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Priority*

1. Applicant's claim for foreign priority benefit of International Application No. PCT/IL03/00220, filed 13 March 2003, is acknowledged.

### *Claim Objections*

2. Claims 1, 3, 7, 11, 14, 15 and 17 objected to because of the following informalities: the term "elongate" should read —elongated—. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-10, 16 and 17 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 5 and 7 recite the limitation "heat sufficient to cut hair" in line 3. The phrase is deemed indefinite due to know particular heat temperature recited to define the ability to cut hair.

Claim 2 recites the limitation "the dispenser" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitation "the elongate element" in line 1-2. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "the deodorant dispenser" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the element" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitation "the portion" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "the heated element" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 16 recites the limitation "the electrically charged element" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

Claim 17 recites the limitation "said elongate element" in line 2 and "the housing" in line 2. There is insufficient antecedent basis for these limitations in the claim.

The claims are replete with such insufficient antecedent basis rejections and the above noted rejections are examples of such. Applicant is respectfully requested to ensure all other potential insufficient antecedent basis rejections are addressed.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 5 and 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Vrtaric (U.S. Patent No. 4,254,324).

Vrtaric disclose a hand-held hair cutting apparatus (hair dryer 10 with singeing functionality) comprising a structure having a portion adapted for contacting an area of skin having hair, the apparatus comprising a heat-generating element (heating element 34; column 3, line 42 – column 4, line 54; see Figures 1, 4) producing heat sufficient to cut hair (singed being equivalent to cut) mounted on the portion; and a filter (40) mounted on the portion; and a pump (fan motor 18) mounted on the structure, adapted to cause air to flow from the element (heating element 34) through the filter.

As the reference meets all material limitations of the claims at hand, the reference is anticipatory.

7. Claims 7, 8, 10, 11-13, 15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Kelman (International Publication No. WO/92/16338).

Kelman discloses a hand-held hair cutting apparatus comprising a structure adapted for contacting an area of skin having hair and a method of collecting cut hair, the apparatus comprising: a heat-generating elongate element (laser apparatus 12 being elongated generating an elongated beam of light 18 to cut hair; Abstract) producing heat sufficient to cut hair, mounted on the portion; and an electrostatically charged element adapted for collecting cut hair (page 6, line 24 – page 7, line 3).

Kelman further discloses the electrostatically charged element comprising a hair collecting receptacle (inherent in a hair collecting means; page 10, claim 9) and a comb portion (40); including moving the heated elongate element along the surface of the skin of an area from which hair is to be removed by hand (see Figures 1A, 1B, 2A, 3A, 4); and the elongate element being located external to the housing (see Figure 4).

As the reference meets all material limitations of the claims at hand, the reference is anticipatory.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vrtaric (U.S. Patent No. 4,254,324) in view of Tajima et al. (U.S. Publication No. 2004/0101447).

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Vrtaric discloses all of the limitations of the claimed invention, as previously set forth, except for the filter dispensing a deodorant or perfume into air that passes through it.

However, a porous member containing perfume/deodorant between a fan motor and an element is known in the art. Tajima et al. teach a porous containing member (2) having a fan (1) generating an air flow through the porous containing member (2) (page 4, paragraph 43; page 5, paragraph 58 – page 6, paragraph 59; see Figure 10(a) – 10(c)) to provide a pleasant smell of a system when in operation. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the filter of Vrtaric with a perfume or deodorant as taught by Tajima et al. in order to provide a pleasant smell of a system when in operation.

11. Claims 9 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelman (International Publication No. WO/92/16338) in view of Iderosa (U.S. Patent No. 5,065,515).

Kelman discloses all of the limitations of the claimed invention, as previously set forth, except for the heated elongate element being a wire instead of a laser. Iderosa teaches that a heated wire metallic element is an equivalent structure known in the art (Abstract; column 1, lines 62-67; column 2, lines 20-36; column 3, lines 54-61; see Figure 3). Therefore, because these heating means were art recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute a heating wire for a laser.

12. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kelman (International Publication No. WO/92/16338) in view of Pragt (U.S. Publication No. 2001/0015016).

Kelman discloses all of the limitations of the claimed invention, as previously set forth, except for the electrostatically charged element being charged by friction of the element with the skin of a user as it is moved along the skin.

However, an electrostatically charged element being charged by friction as it is moved along the skin is known in the art. Pragt teaches a shaving apparatus (9) a manipulator (10) that is adapted to move hair along the cutting edge (page 1, paragraph 1; see Figure 1). In addition, Pragt teaches the manipulator comprising a material, TEFLON® which provides a low coefficient of friction with respect to the skin surface (page-2, paragraph 23). Pragt further teaches that the manipulator (10) can have a surface with high friction relative to hairs and if desired the hairs can be moved in the tangential direction by an electrostatic method (page 5, paragraph 56). Pragt teaches the advantage of such a configuration provides less friction with respect to the skin, while having an inherent property of self charging by friction with skin, and higher friction relative to hairs. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the electrostatically charged element being made of TEFLON®, which has an inherent property of self charging by friction with skin, in order provide the electrostatically charged element with less friction with respect to the skin and higher friction relative to hairs, thereby improving the operating functionality of the device.

13. Claims 1, 3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ewald (U.S. Patent No. 2,164,581) in view of Imagawa (U.S. Patent No. 5,197,196).

Ewald discloses a hand held hair cutting apparatus (thermoelectric rotary razor) comprising a structure having a portion (close fitting guard 38) adapted for contacting an area of skin having hair, the apparatus comprising: a heat-generating elongate element (cutting element or wire 11/45; column 2, line 35 column 4, line 37) producing heat sufficient to cut hair (column 3, line 67 – column 4, line 12), mounted on the portion (see Figures 1-9).

With respect to the limitations of claim 3, Ewald discloses the heating element or wire (11/45) rotating of a shaft (7). The rotating of the shaft will inherently vibrate due to the rotational motion of the shaft (7)/heating element or wire (11/45) combination and therefore is adapted to vibrate.

Ewald discloses all of the limitations of the claimed invention, as previously set forth, except for a deodorant or perfume dispenser juxtaposed in relation to the portion.

However, an electric shaving apparatus comprising a deodorant or perfume dispenser juxtaposed in relation to the portion is known in the art. Imagawa et al. teach a structure attached to a rotating shaft of an electric shaver comprising a foaming resin having continuous pores with perfume to prevent a bad smell during shaving (column 7, lines 37-43). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the insulating structure of Ewald with the foaming

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resin with perfume to prevent a bad smell during shaving, thereby providing a more enjoyable and pleasing shaving experience.

14. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ewald (U.S. Patent No. 2,164,581) in view of Imagawa (U.S. Patent No. 5,197,196) as applied to claims 1 and 3 above, and further in view of Tajima et al. (U.S. Publication No. 2004/0101447).

The Ewald-Imagawa hair cutting apparatus combination discloses all of the limitations, as previously set forth, except for the dispenser being adapted to dispense a deodorant or perfume in response to heat or the deodorant dispenser being adapted to dispense a deodorant in response to vibration.

However, an apparatus for generating smell with respect to heat and vibration is known in the art. Tajima et al. teach a method and apparatus for generating smell (perfume or deodorant) via heating a porous containing member (2) (column 4, paragraph 44; page 6, paragraph 60; see Figure 11(a)) or by vibrating the porous containing member (2) (column 4, paragraph 44; page 6, paragraph 60; see Figure 11(b)). To provide the porous container the ability to generate a smell based on heat or vibration would have been a mere engineering expediency as Tajima et al. clearly teaches the use of a porous perfume or deodorant container that may generate smell by either heating or vibrating the porous container.

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15. Claims 1-3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vrtaric (U.S. Patent No. 2,164,581) in view of Schooley (U.S. Patent No. 5,197,196).

Vrtaric discloses a hand held hair cutting apparatus (hair singer) comprising a structure having a portion (comb 32) adapted for contacting an area of skin having hair, the apparatus comprising: a heat-generating elongate element (heating element 34; column 3, line 42 – column 4, line 54; see Figures 1, 4) producing heat sufficient to cut hair (singed being equivalent to cut) mounted on the portion.

With respect to the limitations of claim 3, Vrtaric discloses the fan motor (18) creating an air flow in the tool which would inherent induce vibration into the heating element (34), and therefore is “adapted to vibrate” given its broadest reasonable interpretation.

Vrtaric discloses all of the limitations of the claimed invention, as previously set forth, except for a deodorant or perfume dispenser juxtaposed in relation to the portion.

However, a scented disk in a hair dryer configuration configured to generate a scent is known in the art. Schooley teaches a scented disk (12) comprising beads (15) to generate a scent or perfume when the stream of conventional hot air is forced over the beads(15) of the disk (12) (column 2, line 18 – column 3, line 18). The advantage of such a configuration provides a pleasant smell of a system when in operation. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Vrtaric with the scented disk of Schooley in order to provide a pleasant smell of a system when in operation.

16. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vrtaric (U.S. Patent No. 4,254,324) in view of Tajima et al. (U.S. Publication No. 2004/0101447).

Vrtaric discloses all of the limitations of the claimed invention, as previously set forth, except for the dispenser dispensing a perfume or deodorant in response to vibration.

Tajima et al. teach that vibrating a porous containing member (2) containing perfume or deodorant is an equivalent structure known in the art (column 4, paragraph 44; page 6, paragraph 60; see Figures 11(a), 11(b)). Therefore, because these scent generating means were art recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute vibrating a porous container of perfume/deodorant for heating a porous container of perfume/deodorant. Furthermore, to provide the porous container the ability to generate a smell based on vibration would have been a mere engineering expediency as Tajima et al. clearly teaches the use of a porous perfume or deodorant container that may generate smell by either heating or vibrating the porous container.

### ***Double Patenting***

17. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent

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and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

18. Claims 7, 8, 11 and 12 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 11,571,753. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the instant application are

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merely broader in scope than that of the copending application. Therefore, the copending application comprising a blunt debris removal element that would inherently generate an electrostatic force during operation meets the limitations of the instant application..

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Ralis whose telephone number is 571-272-6227. The examiner can normally be reached on Monday - Friday, 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

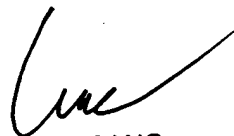
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Stephen J Ralis  
Examiner  
Art Unit 3742

SJR  
June 21, 2007



TU B. HOANG  
SUPERVISORY PATENT EXAMINER